

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

SHERRIE INA WILSON,

Appellant,

vs.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-13318

Trial Court No. 3AN-11-08618CI


NOTICE OF LODGING OF EXHIBIT

VRA CERTIFICATION. I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim or witness to any crime unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

The State is lodging a copy of a 10-page transcript ("Transcript of Proceedings: Change of Plea") that Ms. Wilson relied on and submitted as an exhibit at her post-conviction relief evidentiary hearing. [See Tr. 4; Cr. Tr. 69; R. 17, 77; At. Br. 3-4] Ms. Wilson's attorney, Renee McFarland, stated she does not oppose this lodging.

DATED August 2, 2021.

TREG R. TAYLOR
ATTORNEY GENERAL

By: 
Donald Soderstrom (1205046)
Assistant Attorney General

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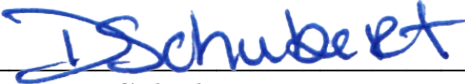
Trial Court No. 3AN-11-08618CI

CERTIFICATE OF SERVICE AND TYPEFACE

I, Deana Schubert, state that I am employed by the Alaska Department of Law, Office of Criminal Appeals, and that on August 2, 2021, I emailed a copy of the State's NOTICE OF LODGING OF EXHIBIT and this CERTIFICATE OF SERVICE AND TYPEFACE in the above-titled case to:

Renee McFarland
Public Defender Agency
900 W 5th Ave Ste 200
Anchorage, AK 99501-3706
renee.mcfarland@alaska.gov

I further certify, pursuant to App. R. 513.5, that the font used in the aforementioned documents is Century Schoolbook 13 point.


Deana Schubert

1 IN THE SUPERIOR COURT
2 FOR THE STATE OF ALASKA ANCHORAGE
3

4 THE HONORABLE MICHAEL WOLVERTON, SUPERIOR COURT JUDGE

5 -oOo-

6 STATE OF ALASKA,)
7 Plaintiff,) Case No. 3AN-09-04793CR
8 vs.)
9 SHERRIE INA WILSON,)
10 Defendant.)
11

12 TRANSCRIPT OF PROCEEDINGS

13 CHANGE OF PLEA

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15 ANCHORAGE, ALASKA
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23 Transcribed By: DENISE HINXMAN
24

APPEARANCES:

For the Plaintiff:

SHARON MARSHALL
ASSISTANT DISTRICT ATTORNEY

For the Defendant:

BRANDON KELLEY
ASSISTANT OFFICE OF PUBLIC
ADVOCACY

ANCHORAGE, ALASKA

-oOo-

THE COURT: You may be seated. Good afternoon.
We're here -- this is the time set for change of plea in
09-4793, State of Alaska versus Sherrie Wilson.

Ms. Wilson is here with her attorney. And the
State's counsel is here. And are we ready to proceed?

MS. MARSHALL: We are ready to proceed.

THE COURT: What's going to happen today?

MR. KELLEY: Judge, she's going to be entering a
plea to Count II, murder in the second degree. On her
successful plea, the State's going to dismiss Counts I and
III.

There's no agreement as to the sentence. The
State is, I think, putting on the record that they're not
asking for more than 75 years as a composite active, plus
suspended time.

THE COURT: All right. Ms. Wilson, have you had
enough time to talk to your lawyer about this case?

THE DEFENDANT: No, I haven't.

THE COURT: I'm sorry?

THE DEFENDANT: No, I haven't.

THE COURT: You need more time to talk to your

1 attorney?

2 THE DEFENDANT: I need a different attorney
3 because I feel misrepresented, and I feel that -- I don't
4 know what murder three is or murder one or murder two.

5 MR. KELLEY: [Whispering] Sherrie, what do you
6 want to do? Do you want to enter a plea or what?

7 THE DEFENDANT: I want a different deal.

8 MR. KELLEY: The State isn't offering you a
9 different deal. We talked about it.

10 THE DEFENDANT: Well, there's murder three.

11 MR. KELLEY: There is no murder three, Sherrie.
12 The judge is asking if you want more time to talk to me
13 about what you're charged with, what the agreement is.

14 [Whispering]

15 MR. KELLEY: Talk about what the charges are,
16 what the agreement is, to talk about the case. We talked
17 about [indiscernible].

18 THE DEFENDANT: Right.

19 Yes, I understand.

20 THE COURT: All right. And you're ready to
21 proceed now?

22 THE DEFENDANT: Yeah.

23 THE COURT: Okay. Now, the penalty range on an
24 open sentencing basis for murder in the second degree is a

1 minimum 10 years up to a maximum 99 years; do you
2 understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. And your plea is guilty to the
5 charge of murder in the second degree; is that correct?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. By pleading guilty this
8 afternoon, you're giving up your right to have a trial in
9 front of a judge or in front of a jury of 12 people.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: And if you had a trial, I would
13 explain the law to the jury. I would explain that you
14 would be presumed to be innocent until proven guilty
15 beyond a reasonable doubt of all the elements of this
16 charge.

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: I would explain also that, as a
20 defendant in your case, you'd have an absolute right at
21 trial to remain silent.

22 If you went to trial, you would have no duty to
23 present any testimony or any evidence at all.

24 And do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Yes?

3 THE DEFENDANT: Yes.

4 THE COURT: But by pleading guilty this
5 afternoon, you're giving up your rights to confront and
6 cross-examine the witnesses and evidence that the State
7 would have to bring in against you. And likewise, you're
8 giving up your right to bring witnesses and evidence into
9 court on your own behalf.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: We're not going to have a trial. So
13 there's no trial to appeal from. And there's no sentence
14 appeal, or there will be a sentence appeal if you feel,
15 however, that the sentence that I ultimately impose is
16 incorrect or excessive. That would be the only appeal
17 that you would have; do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And apart from the agreement that's
20 been stated thus far, has anybody made any other threat or
21 promise to cause you to plead guilty?

22 THE DEFENDANT: No.

23 THE COURT: You're doing this freely and
24 voluntarily?

1 THE DEFENDANT: Yes.

2 THE COURT: And you're not under the influence of
3 any medication or anything that might affect your
4 decision?

5 THE DEFENDANT: I am.

6 THE COURT: What's that?

7 THE DEFENDANT: I'm under medication.

8 MR. KELLEY: She is on medication, Judge.

9 THE COURT: All right. Is it something that
10 makes you feel that you can't make this decision, or are
11 you still able to follow -- you seem like you're able to
12 follow.

13 THE DEFENDANT: I can't deal with any of this.

14 THE COURT: My question is: Have you understood
15 what I said to you thus far? I understand it's
16 emotionally difficult. That's not the question. The
17 question is: You seem to have understood what I've been
18 telling you about.

19 THE DEFENDANT: Yes.

20 THE COURT: All right. I will order a full
21 presentence report. And it's my understanding the parties
22 want sentencing in January.

23 MS. MARSHALL: Your Honor, may we approach?

24 THE COURT: Yes.

1 [Bench conference between Court and counsel.]

2 MS. MARSHALL: And Mr. Kelley, weigh in here.

3 I'm just concerned about the way this plea is going
4 through. Could I ask the Court please to be, just be a
5 little bit more, making sure that she's on the same page
6 as Mr. Kelley: If you're willing to do this, would you
7 represent on the record that you've talked to her about
8 this plea and you've talked to her about the differences
9 in it.

10 THE COURT: That's fine with me.

11 MS. MARSHALL: Okay.

12 [End of Bench Conference]

13 THE COURT: And you did want a date in January?

14 MS. MARSHALL: Yes.

15 THE COURT: And Mr. Kelley, just in light of some
16 of the concerns that were expressed by Ms. Wilson, do you
17 represent that you have discussed this case with her, and
18 you went through the elements of the charge and the
19 sentencing range, et cetera?

20 MR. KELLEY: That's correct, Judge. And with
21 respect to the plea offer that the State extended, I
22 visited Ms. Wilson on at least two occasions that I recall
23 to talk about that, once with my supervising attorney, and
24 spent over an hour discussing the potential risks of going

1 to trial and what the sentencing agreement from the State
2 was and what our ultimate hope for the outcome will be.

3 And I believe that she understands, and
4 certainly, as the Court indicated, is not necessarily
5 happy with the agreement but understands what's going on.

6 THE COURT: All right. How about -- you wanted
7 half a day?

8 MR. KELLEY: I think so.

9 THE COURT: January 28th at 8:30, we'll give you
10 all morning.

11 MS. MARSHALL: Okay. Your Honor, just one
12 request is that if defense counsel intends to rely on any
13 expert testimony, we would ask for notice as soon as
14 possible and any discovery of information relied upon by
15 the experts.

16 THE COURT: Sure. Anything else we need to
17 address?

18 MR. KELLEY: Nothing further, Judge.

19 MS. MARSHALL: No.

20 THE COURT: All right. All right. We'll go off
21 record and stand in recess.

22 THE CLERK: Off record. This court stands in
23 recess.

24 (Proceedings concluded.)

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3 I, Denise Hinxman, hereby state:

4 That I transcribed from a DVD the proceedings
5 entitled herein into typewriting as herein appears;

6 That the foregoing transcript is a full, true
7 and correct transcription to the best of my ability of
8 said proceedings.

9 That the foregoing transcript, consisting of
10 pages 1 through 10, inclusive, contains a full, true and
11 complete transcript of said transcription,
12

13 DATED: At Reno, Nevada, this 23rd day of
14 September, 2016.
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16 _____
17 Denise Hinxman
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